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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION FOUR

In re TERRANCE C., a Person Coming  
Under the Juvenile Court Law.

B163647

(Los Angeles County  
Super. Ct. No. J956554)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

WILLIE R.,

Defendant and Appellant;

TERRY C.,

Respondent.

APPEAL from an order of the Superior Court of Los Angeles County, Marilyn H. Mackel, Commissioner. Affirmed.

Sharon S. Rollo, under appointment by the Court of Appeal, for Defendant and Appellant.

Lloyd W. Pellman, County Counsel, and Kim Nemoy, Deputy County Counsel,  
for Plaintiff and Respondent.

Stephanie Nordlinger for Respondent Terry C.

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Appellant Willie R. has been the legal guardian for Terrance C. since his birth in 1988.<sup>1</sup> She appeals from the juvenile court's dispositional order of December 11, 2002, in which the court removed Terrance from her custody and ordered reunification services, including counseling to deal with the minor's obsessive compulsive disorder (OCD). We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

A juvenile dependency petition was filed on September 10, 2002, contending that appellant was unable to provide adequate care and supervision to Terrance, and that, as a result, he had engaged in high risk sexual behavior. The detention report explained that Terrance had been initiating sexual activity with a much older, developmentally delayed male relative of appellant's for a period of months. In May 2002, appellant asked that Terrance be removed because she could not manage his behavior, and signed a voluntary family reunification contract to that effect. Terrance had been placed, at that time, in a nearby group home that specialized in adolescents with sexual identity issues, but appellant removed him because he missed her and, according to a psychologist who interviewed the family later, because the "treatment philosophy of tolerance for alternative sexual lifestyles conflicted with her religious convictions." During this time, appellant informed the caseworker of experiencing difficulty in obtaining counseling for Terrance. ~(CT 15)~

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<sup>1</sup> Terrance's mother has a chronic mental condition and a history of substance abuse. Appellant is also the mother's caretaker. The record states that appellant was appointed guardian by the probate court, but the parties appear to agree that her appointment was through the juvenile dependency court.

In August 2002, the Los Angeles County Department of Children and Family Services (DCFS) was informed that Terrance had solicited sex from a homeless adult male. The caseworker confirmed the truth of this report from Terrance. Appellant was unwilling to discuss the matter, informing the caseworker that “she would pray to God and [H]e would take care of the matter.” Thereafter, Terrance was detained and placed in foster care.

At the detention hearing, the court ordered a psychological evaluation and counseling for Terrance, wraparound services for the family, with DCFS to determine what services were needed for Terrance to be returned to appellant.

The psychological report, dated September 26, 2002, described classroom noncompliance, teasing of peers, low frustration tolerance, and repetitive behaviors such as rearranging and straightening desks, picking at body parts, and excessive orderliness. Appellant had difficulty getting Terrance to weekly therapy appointments first recommended in May 2000, and the school counselor had concerns about her ability to monitor his medication compliance. The psychologist had been attempting to schedule an assessment appointment for Terrance with appellant since November 2001. They were finally interviewed in August 2002. Appellant reported that she had discontinued appointments because “she didn’t think that they were helping [Terrance].” Terrance reported that he was not gay and wanted help to stop his sexual and obsessive-compulsive behavior. He was not unhappy in his foster care placement. The report recommended that Terrance continue participation in individual or group therapy and family therapy with appellant at least once a week. The psychologist expressed concerns about appellant’s ability to ensure usage of medication and attendance in counseling due to past experience.

In the disposition report, the caseworker described a conversation with appellant in which she stated she would “pray to God for guidance and resolution of this matter,” and that she agreed to comply with court orders for Terrance to get the medical and psychological services he needed. The caseworker acknowledged that appellant and Terrance were deeply bonded and that Terrance loved her as a mother. The report

recommended continued foster care placement with overnight weekend visitation for appellant while both appellant and Terrance participated in counseling with the goal of understanding and controlling Terrance's dangerous misbehavior.

In October, the court ordered an Evidence Code section 730 evaluation to address whether Terrance was likely to be abused by a member of appellant's household, the ability of appellant to parent and adequately supervise Terrance, whether Terrance had any special emotional or psychological problems that needed to be addressed in counseling, and recommendations concerning placement. The psychologist interviewed appellant who expressed satisfaction with her church activities at the Philip Temple Methodist Church and belief in the healing power of religion. She denied that Terrance was dealing with any sexual identity issues or that he had engaged in sex with the developmentally disabled adult. When asked how she would assist Terrance in resolving sexual issues, she said she would pray to God to "kill it at the root." Terrance admitted to the sexual activity previously described and also reported an earlier series of encounters, reputedly forced, with a male schoolmate. He wanted help to control his sexual and obsessive-compulsive behavior. The report concluded that Terrance could be responsive to psychotherapeutic intervention if he had environmental structure and guidance from a caretaker who had "good insights in terms of how to deal with [his] behavior." According to the report, it did not appear that appellant "has the parenting/supervision skills to help Terrance with his various difficulties." The report recommended continued participation in counseling with regard to his sexual identity and referral to a program that specializes in adolescents with obsessive-compulsive disorder. For appellant, the report recommended that she be educated with respect to adolescent sexual activity and be given a written plan with a specific agenda for her to follow.

At the December 11 disposition hearing, the court found by clear and convincing evidence that substantial danger existed to the physical health of the minor and/or that the minor was suffering severe emotional damage; that there was no reasonable means to protect him without removal from appellant's custody; and that reasonable efforts had been made to prevent or eliminate the need for removal from appellant's home. It

ordered appellant to participate in family therapy with a therapist experienced in OCD; parenting that deals with OCD; and attendance in PFLAG sessions if deemed appropriate by the therapist. Terrance was to continue to receive counseling. The court permitted the overnight weekend visits to continue, but specifically ordered that Terrance was not to be unsupervised at any time. A timely appeal was noticed from the disposition order.

## **DISCUSSION**

Appellant contends that the court's findings that there was substantial danger to Terrance's health or emotional well-being if he remained in appellant's custody, that there was no reasonable means to protect him without removing him, and that reasonable efforts were made to prevent or eliminate the need for Terrance's removal were not supported by the evidence. We do not agree. This is not a simple matter of an unruly teenager who refused to obey house rules as in *In re Jasmine G.* (2000) 82 Cal.App.4th 282 cited by appellant. The evidence is undisputed that while in appellant's custody, Terrance engaged in sexual activity with three different male partners. The specific behavior involved is accurately described as "high risk" because it often leads to serious illness and/or death. Appellant essentially admitted that she was unable to control this type of behavior when she contacted DCFS in May 2002 after learning of the relationship with the developmentally disabled adult, and signed a voluntary family reunification contract. But she pulled out of that compact before any serious attempt to deal with the problem could take place. Terrance thereafter engaged in the riskiest behavior of all -- sexual activity with a homeless stranger. DCFS was justified in intervening to protect Terrance's life and health.

Appellant contends that the fact she receives unsupervised weekend visits is proof that there was no need for Terrance to be detained while family reunification services are provided. Two factors convince us otherwise in the present case. First, appellant was not accused of personally engaging in abusive or inappropriate behavior. The charge was that she failed to properly care for and supervise Terrance. Moreover, after his increasingly risky behavior came to light, she refused to acknowledge that it had occurred

or work with DCFS to create a plan for dealing with it. Her failure to obtain recommended counseling for Terrance was well documented. The court could reasonably believe that under the circumstances Terrance would be safe during relatively structured weekend visits but not if he was living with appellant full time, and that temporary removal from appellant's home was the only way to ensure that he obtained the immediate counseling he needs.

Appellant informed the caseworker and the psychologists who interviewed her that she would pray to God to take care of the matter. Her brief argues that DCFS's insistence on obtaining counseling for Terrance means her religious rights were infringed. To support her position, appellant cites Welfare & Institutions Code section 300, subdivision (b), which provides that whenever a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, "the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone *in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof*, and shall not assume jurisdiction *unless necessary to protect the child from suffering serious physical harm or illness.*" (Italics added.) Appellant does not identify the tenets and practices of her church that forbid psychological counseling for a teenager engaged in high risk sexual behavior. Moreover, for the reasons discussed, Terrance *was* in danger of suffering serious physical harm or illness. Accordingly, this provision does not apply. (See *In re Tania S.* (1992) 5 Cal.App.4th 728, 736 ["[T]he proceedings here were not based upon an allegation [the parent] failed to provide the children adequate medical treatment or specifically decided to provide spiritual treatment through prayer. Instead, these proceedings were based upon [the parent's] failure or inability to adequately supervise or protect the minors resulting in their suffering (or being at substantial risk of suffering) serious physical harm"].)

Appellant's brief states that she had provided Terrance "with the services of a licensed clinical therapist, someone she had found through her church, but DCFS had

removed Terrance before that counseling could be implemented.” The citation to the record to support that statement indicates only that appellant had “just provided [her counsel] with a card from a Ronald Banks who is a licensed clinical psychologist through the Department of Mental Health, and specifically Antonio Mental Health Program and she indicates that this person in addition to a Steven Bradley who is a teacher communicate based instructor at Manual Arts High School are two individuals she was working with to assist in the child’s behavior.” Nothing in the record indicates that either of the men identified were affiliated with or approved by appellant’s church or religious denomination or that they had a different approach than the therapists selected by DCFS. More significantly, there is no evidence that appellant ever obtained treatment or counseling for Terrance’s problems from the two men identified or anyone else. As we have seen, an ongoing problem identified in the caseworker’s reports was appellant’s “difficulty” in arranging counseling, scheduling appointments, and getting Terrance to appointments. On this record, there is no support for the argument that appellant had arranged for counseling more in line with her religious beliefs and that her preferences were disregarded by DCFS.

Underlying appellant’s freedom of religion argument is the insinuation that the therapist(s) selected by DCFS will advocate the view that homosexuality is an acceptable alternative lifestyle, a view that is denounced by many religious denominations.<sup>2</sup> Appellant’s fears in this regard appear to be unfounded. The goal, as we understand it, is to control Terrance’s OCD and encourage him to avoid *all* sexual activity, particularly high risk sexual activity.

The second factor that persuades us that the court did not err is the fact that appellant is not Terrance’s parent. She is his guardian as a result of DCFS’s removal of Terrance from his biological parents. As she admits in her reply brief “the juvenile court may terminate a guardianship it created.” (See *In re Alicia O.* (1995) 33 Cal.App.4th 176, 183 [government not required to provide reunification services to

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<sup>2</sup> Nothing in the record establishes whether appellant’s religion is one of those denominations.

DCFS-appointed guardians, and can terminate the guardianship on proof that termination is in minor's best interest[.]) By ordering a reunification plan that included temporary removal from appellant's care, the court was attempting, quite laudably, to create a scenario under which Terrance could eventually be reunited with the family he loves.

### **DISPOSITION**

The order is affirmed.

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CURRY, J.

We concur:

VOGEL (C.S.), P.J.

EPSTEIN, J.